

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION**

JOHN U. WIESENDANGER and LINDA H.
WIESENDANGER,

Plaintiffs,

v.

MIDAMERICA MORTGAGE, INC.,

Defendant.

Case No. 1:17-cv-286-CHS

MOTION FOR ENTRY OF ORDER OF DISMISSAL

COMES NOW, Mid America Mortgage, Inc. (“MAM”) and John U. Wiesendanger and Linda H. Wiesendanger (the “Plaintiffs”) and herby file this Motion for Entry of Order of Dismissal, respectfully showing this Honorable Court as follows:

1. On February 19, 2019, MAM and the Plaintiffs entered into a final settlement agreement. Pursuant to the terms of the settlement agreement, certain deadlines were implemented between the Parties premised on the providing of a specific notice by MAM’s loan servicer, LoanCare, LLC. One of those deadlines was the filing of a Stipulation of Dismissal or Consent Order regarding the foreclosure sale at issue in this case.

2. Due to an internal error, the notice was sent (on March 26, 2019) to the former address for the Plaintiffs’ attorney and never received. This error was not discovered by counsel for MAM or the Plaintiffs until mid-May. Further, counsel for MAM was not aware of the letter’s existence until early May. Thus, the Parties were unable to adhere to the deadlines contained in the settlement agreement.

3. The Parties are diligently working to rectify the issues caused by the notice being sent to the wrong address, including but not limited to a modification of the terms of the settlement agreement.

4. On May 6, 2019, this Court entered an Order directing the Parties to file a stipulation of dismissal no later than May 28, 2019, and if no such document is filed, the Court will dismiss the case with prejudice pursuant to Fed. R. Civ. P. 41(b).

5. The Parties are cognizant of the Court's desire to not allow this case to linger on its docket with no activity. In an effort to both remove the case from the docket and allow the Parties to rectify their current issues, they respectfully request that this Court enter the proposed order of dismissal, attached hereto as **Exhibit "A"**. The proposed order contemplates that either Party has leave to set aside the order and reinstate the case within 180 days if the settlement is not consummated.

WHEREFORE, the Parties respectfully request the following relief:

- a) That this Court enter the proposed order attached as Exhibit A; and
- b) Any other relief that this Court deems just and proper.

Respectfully submitted, this 28th day of May 2019.

/s/ Bret J. Chaness
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CERTIFICATE OF SERVICE

I hereby certify that I have, this 28th day of May 2019, filed the within the foregoing by CM/ECF, which will serve notice on all parties.

/s/ Bret J. Chaness
BRET J. CHANESS (BPR # 31643)